

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

MARK ENGLISH,

Plaintiff,

-vs-

Case No. 6:10-cv-318-Orl-28GJK

UNUM LIFE INSURANCE COMPANY OF
AMERICA, SCIG, LLC, SEAN WILLIAMS,
ERICA WILLIAMS, CHRISTOPHER
MILENKI, PHILIP PHILLIPS, DENNIS
PAQUETTE, JOHN MONTEFUSCO,
AARON DAHL, KATHY ERNST,

Defendants.

ORDER

This case is before the Court on Plaintiff's Motion to Remand (Doc. No. 18) filed March 25, 2010. The United States Magistrate Judge has submitted a report recommending that the motion be granted.

After an independent *de novo* review of the record in this matter, and consideration of the objections filed by both Defendant UNUM Life Insurance Company of America ("UNUM") (Doc. No. 70) and Plaintiff (Doc. No. 72), the Court agrees entirely with the findings of fact and conclusions of law in the Report and Recommendation. Therefore, it is

ORDERED as follows:

1. That the Report and Recommendation filed June 21, 2010 (Doc. No. 67) is **ADOPTED** and **CONFIRMED** and made a part of this Order.

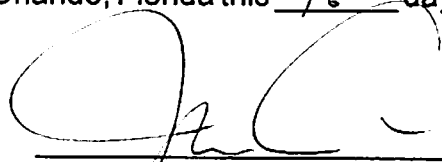
2. The Court finds that the breach of contract claim against UNUM is not separate and independent from the other stated causes of action of Plaintiff's Complaint.

3. The Court finds that there is a *possibility* that Plaintiff has stated a cause of action against the non-consenting Defendants and, therefore, finds that they were not fraudulently joined by Plaintiff.

4. The Court finds that the removal by UNUM was procedurally improper because UNUM did not obtain consent of all Defendants that had been served with the Complaint at the time of the filing of the Notice of Removal, namely Erica Williams and Sean Williams.

5. Plaintiff's Motion to Remand is **GRANTED**. The Clerk is directed to remand this case to the Circuit Court of the Eighteenth Judicial Circuit in and for Seminole County, Florida, case number 09-CA-94483-15K, and to thereafter close this file.

DONE and ORDERED in Chambers, Orlando, Florida this 16 day of ^{August} ~~July~~, 2010.



JOHN ANTOON II
United States District Judge

Copies furnished to:

United States Magistrate Judge
Counsel of Record
Unrepresented Party